

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
1998 Biennial Regulatory Review-	)	CC Docket No. 98-171
Streamlined Contributor Reporting	)	
Requirements Associated with Administration	)	
Of Telecommunications Relay Service, North	)	
American Numbering Plan, Local Number	)	
Portability, and Universal Service Support Mechanisms	)	
	)	
Telecommunications Services for Individuals	)	CC Docket No. 90-571
With Hearing and Speech Disabilities, and the	)	
Americans with Disabilities Act of 1990	)	
	)	
Administration of the North American	)	CC Docket No. 92-237
Numbering Plan and North American	)	NSD File No. L-00-72
Numbering Plan Cost Recovery Contribution	)	
Factor and Fund Size	)	
	)	
Number resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

**COMMENTS OF WORKING ASSETS ON “FURTHER NOTICE OF PROPOSED  
RULEMAKING AND REPORT AND ORDER IN THE MATTER OF FEDERAL-  
STATE JOINT BOARD ON UNIVERSAL SERVICE”, CC DOCKET NO. 96-45,  
ET. al.**

**INTRODUCTION**

Working Assets Funding Service, Inc. (“Working Assets”) is a long distance switchless reseller serving primarily the residential market. The

company is one of the largest long distance residential resellers in the country. Having started its resale business in 1991, today the Company provides long distance service to over 350,000 residential customers nationwide.

Working Assets believes the subsidy program for Universal Service can be improved by replacing the current carrier-assessment scheme with a collect-and-remit method. Below are Working Assets' Comments on the primary questions for which the Federal Communications Commission requested comments in its "Further Notice of Proposed Rulemaking and Report and Order" in CC Docket No. 96-45 released February 26, 2002.

### BACKGROUND

In 1997 the FCC created a system to furnish financial support for advanced telecommunication services for Schools and Libraries and Rural Health Care; to subsidize the cost of telecommunications for consumers living in High-Cost areas; and to render telecommunication services more affordable for eligible low-income consumers. That system works as follows: the FCC assesses the cost of Universal Service on carriers via a "contribution factor" that is set quarterly. The contribution factor is applied to each carrier's interstate revenue as reported to the FCC in Forms 499Q. The quarterly assessment is billed in three monthly installments. To recoup the cost of this assessment carriers charge a fee to their end-users. Recouping the cost from end-users via a separate line item fee is not mandatory, but is the method utilized by most carriers.

Both carriers and consumer groups criticize this system. Long distance carriers are experiencing declining revenues. Because there is a lag between when the FCC calculates the fee and when the carriers attempt to recoup the cost of the FCC billings, declining revenues (and collection costs) mean that carriers must use a larger percentage to apply to customer charges than the FCC uses to apply to carrier revenues. (For example, the FCC uses 1st quarter revenues as the base to calculate the fee to be charged Carrier X in the 3rd quarter of the same year. If Carrier X's 1st quarter revenues are \$100 and the FCC contribution factor is 5%, Carrier X will be billed \$5.00 in the 3rd quarter.

However, Carrier X' revenues are projected to decrease to 80.00 of interstate revenue in the first quarter of the following year. The carrier will have to use a percentage of 6% to collect just the \$5.00, without taking into account collection and interest expenses.) So even if the carrier is only collecting the FCC's fee, and nothing more, it is open to a charge of profiteering when in fact when costs are taken into account it is losing money. It cannot defend itself without making sensitive income and market share information available to competitors as well as consumers. Moreover, the recouping of costs is fraught with uncertainty since the carrier can only estimate the size of the future revenue base on which it will attempt to recoup its costs. In our example, the \$80.00 can only be an estimate that surely will turn out to be too high or too low.

Consumer groups criticize the system because they believe the carriers' larger fees include a profit as well as all of the costs incurred by the carrier in connection with the fee. And since the fee is not just a pass-through, similar to the excise tax, and since interstate rates have been detariffed, there is no current method to monitor/regulate the percentage used by carriers to recoup the cost of the FCC's fee from the carriers' customers.

Taking formal notice of the controversy surrounding the current method of providing financial support for Universal Service, the FCC has asked for comments on several issues to ascertain if there is a different and better way to furnish the needed funds for Universal Service.

#### WORKING ASSETS' RESPONSES

Listed below are the FCC's primary questions and the responses of Working Assets:

1. Should the FCC switch from a revenue-based assessment to an assessment based upon residential, single-line business, and mobile wireless connections (excluding pagers)? For each such connection a carrier would be assessed a flat amount of \$1.00 per connection, paging connections would be assessed \$0.25 per connection, and the remaining Universal Service funding needs

would be recovered through capacity-based assessments on multi-line business connections.

No. As the Commission has described this process, it sounds very similar to the method that was used to collect PIC C revenues. Working Assets' experience with that process as a reseller leaves it opposed to any collection system that would use lines or connections as its basis. Working Assets has been unable to obtain dependable and timely information on the number of customer lines/connections from either the local telephone company and/or its underlying carriers, which as a reseller is a must when counting the number of lines for each customer.

2. Should resellers be included in the definition of end-user, and thereby those connections (or revenue) would be included in the assessable base of the facilities-based carrier?

No. Allowing or forcing facility-based carriers to treat resellers as end-users would just add to existing problems by adding another layer of uncertainty and consumer confusion. Now resellers are billed by the FCC just as facility-based carriers. The costs incurred by resellers are the same as those incurred by facility-based carriers. All interexchange carriers are treated the same. Were resellers to be billed by other carriers, the rate various resellers would be charged would vary because individual facility-based carriers would bill different rates. This would mean that resellers having different underlying carriers would be billed different rates. Two resellers having different underlying carriers would be passing on to their end-users Universal Service collection rates different from each other and different from their respective underlying carriers. The lapsed time between the assessment on carriers and the collection from end-users would be exacerbated thereby introducing even more uncertainty and confusion over what is a fair rate of collection for end-users.

For instance, instead of collecting charges based upon the FCC's contribution factor, resellers billed by facility-based carriers would more than likely be passing on a higher cost that included the facility-based carrier's "mark-

up” for collecting its own costs. Moreover, the timing of the collection from end-users would be further removed from when the FCC assessed its fee. Such a scenario would place resellers at a competitive disadvantage, either being perceived by its customers as charging “more” or having its expenses increased by 1-3% of revenues! Furthermore, customers of resellers, who passed through the higher charge, would add their voices—at an even higher pitch—to those who are confused and angered by the higher rates resulting from today’s system.

3. Should the FCC establish a uniform “safe harbor” line-item mark-up amount for carriers to use if they so choose?

Working Assets does not object to creating a “safe harbor”, but believes it would be difficult to create one that was fair to all carriers. Also, Working Assets believes a better solution is available to the Commission by assessing the Universal Service fee directly on end-users and have the carriers act as collectors. (See No. 7)

4. Should the FCC order carriers to report their mark-up along with documentation of the calculation on the quarterly/annual reports (Form 499)?

See Response to No. 3.

5. Should the FCC prohibit any mark-up?

See Response to No. 3.

6. Should the FCC force all carriers to use “Federal Universal Service Fee” to describe any line item charge purported to collect for the USF?

See Response to No. 3.

7. Should the FCC go to a “collect and remit” system?

Yes. In a collect and remit system the FCC would set the percentage to be applied to end-user charges. Instead of today’s two-step procedure wherein the FCC bills carriers and in turn carriers attempt to collect that cost from end-users,

a process which causes the problems previously mentioned, the FCC would set a fee to be applied to end-user charges that would be “collected and remitted” by carriers. Each of the problems of the current system would be resolved in the most direct manner with a transition to a collect and remit procedure.

Carriers would be relieved of trying to divine a fee percentage that would collect from their customers only the costs incurred in paying the FCC’s Universal Service assessment. Instead, carriers would become collectors, who would all pass through to end-users the same percentage. This would relieve some customer confusion. To remove the confusion completely carriers should not be allowed to “mark-up” the percentage to be applied to end-user charges.

Whatever costs fall upon carriers for collecting the fee can be viewed as a fulfillment of the legislative mandate, i.e., “(that) every (interstate) telecommunications carrier contribute on an equitable and nondiscriminatory basis to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service”. Hence, consumers would have confidence that they were paying no more than what the FCC had decreed since carriers would be just applying the rate set by the Commission, and each carrier would be using the same percentage.

As for the difficulty in collecting sufficient funds when basing the assessment on future revenues rather than past revenues, this is the same problem facing individual carriers today: how to predict the size of the revenue base so that a fixed percentage will collect a certain amount of money. However, the Commission, which is assessing the factor on industry-wide revenues, is better able to deal with that problem than a carrier dealing with a small segment of the interstate telecommunications customer base. Today an individual carrier must contend with changes to future revenues due to loss of market share as well as an overall reduction in industry-wide revenues. If the FCC were to set a rate that applied to the whole industry, intra-industry changes in revenue such as one carrier losing market share to another would not have as much of an impact since the FCC’s percentage would be applied to all end-user receipts regardless of which carrier was receiving them.

A prudent reserve could be set and amassed over several months by the Commission. The reserve would act as a buffer against those periods when industry revenues are less than expected because of increased write-offs or an industry-wide reduction in revenue due to price reductions or reduced calling activity.

### CONCLUSION

“Collect and remit” will put an end to or at least manage more effectively all of the problems caused by the current process. Most importantly there would no longer be a two-step process causing the deleterious delay between when the FCC bills carriers and when end-users see the charge on their bills. Consumer confidence that only the amount needed to support the stated Universal Service goals is being collected would be restored. For these reasons and others previously stated Working Assets urges the Commission to adopt a “collect and remit” procedure to replace the carrier-assessment method that is used to provide financial support for Universal Service.

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/s/

Walter N. McGee  
Regulatory Manager  
Working Assets Funding Service, Inc.  
101 Market Street, Suite 700  
San Francisco, CA 94105  
wmcgee@wafs.com